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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MARGARITA VEJO,

Plaintiff,

vs.

PORTLAND PUBLIC SCHOOLS, a public entity; **ROBERTA COOPER**, individually and in her official capacity; **PETRA CALLIN**, individually and in her official capacity; **LEWIS & CLARK COLLEGE**, an Oregon public benefit corporation; and DOES 1 through 50, inclusive,

Defendants.

Case No. _______________

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF AND DAMAGES for:

1. Civil Rights Violations (28 U.S.C. § 1983)
2. Employment Discrimination (ORS 659A.030)
3. Educational Discrimination (ORS 345.240)
4. Public Accommodation Discrimination (ORS 659A.400 *et seq.*)
5. Breach of Contract
6. Breach of the Duty of Good Faith and Fair Dealing

DEMAND FOR JURY TRIAL

Plaintiff MARGARITA VEJO ("plaintiff") alleges as follows:

I. INTRODUCTION

1. This is a civil rights and employment discrimination action whereby plaintiff seeks declaratory and injunctive relief and damages to vindicate and safeguard her fundamental constitutional and employment rights guaranteed under the United States Constitution and Oregon law. Among other claims, plaintiff brings this action for violations of 42 U.S.C. § 1983 ("Section 1983") arising under the First and Fourteenth Amendments to the United States Constitution, as well as violations arising under ORS 659A.030, 659A.403, 659A.406 and 345.240 and under Oregon common law.

2. Plaintiff was an outstanding student enrolled in the graduate School Counseling Program (the "Program") at LEWIS & CLARK COLLEGE ("LEWIS & CLARK") to obtain a Master of Education degree to be qualified as a licensed school counselor in Oregon. She worked diligently for almost two years to meet the Program's requirements, including during internships at local elementary and middle schools and at Madison High School. Despite excelling in the Program, PORTLAND PUBLIC SCHOOLS ("PPS") terminated her internship because of individual employee and institutional bias against her Christian beliefs and her Russian heritage as alleged herein. LEWIS & CLARK then terminated plaintiff from the Program because of the same or similar individual and institutional bias, despite her being close to completing her degree requirements. All defendants expressed and acted upon their unlawful belief that plaintiff could not succeed as a school counselor simply because of her Christian beliefs and values and her Russian heritage.

II. JURISDICTION AND VENUE

3. This is an action for violations of the United States Constitution brought under 42 U.S.C. § 1983. This court has original jurisdiction over plaintiff's federal question claims under 28 U.S.C. §§ 1331 and 1343(3) and (4). This court also has supplemental jurisdiction over plaintiff's state claims pursuant to 28 U.S.C. § 1367.

4. Venue is proper in Oregon's federal court in this division, pursuant to 28 U.S.C. § 1391(b), because the events giving rise to plaintiff's claims arose within this district.

5. Plaintiff timely provided PPS Defendants written tort claims notice pursuant to ORS 30.275 by letter dated April 10, 2014.

III. FACTUAL ALLEGATIONS

A. The Plaintiff

6. At all times material herein, plaintiff was a naturalized U.S. citizen from Russia, a devout Christian and a resident of Clark County, Washington. She was a graduate Master of Education degree candidate enrolled at LEWIS & CLARK from June 2012 through May 2014 and an intern at Madison High School, a public high school within the PPS district and under the control of supervision of PPS, in September and October 2013.

B. The Defendants

7. At all times material herein, PPS is a public school district located in Portland, Oregon and is a governmental entity capable of suing and being sued. PPS is an employer under ORS 659A.001 and ORS 659A.106, as well as a place of public accommodation within the meaning of ORS 659A.400.

8. At all times material herein, ROBERTA COOPER ("COOPER") was an employee of PPS acting intentionally and within the course and scope of her employment.

COOPER was Plaintiff's supervisor at Madison High School. COOPER is sued in her individual and official capacities.

9. At all times material herein, PETRA CALLIN ("CALLIN") was the principal of Madison High School, employed by PPS, and acting intentionally and within the course and scope of her employment. CALLIN is sued in her individual and official capacities.

10. All of the actions of the PPS, COOPER and CALLIN (the "PPS Defendants") alleged herein were conducted under color and pretense of law, including the statutes, ordinances, regulations of the state of Oregon and the policies, customs and usages of PPS.

11. At all times material herein, defendant LEWIS & CLARK was a public corporation organized under the laws of the state of Oregon and is an entity capable of suing and being sued. For purposes of the Program and this action, LEWIS & CLARK is a career school under ORS 345.010, as well as a place of public accommodation within the meaning of ORS 659A.400.

C. Vejo's Background

12. Plaintiff has a background in counseling. For thirteen years, she worked at the Immigrant and Refugee Community Organization ("IRCO") in Portland, Oregon, where plaintiff helped immigrants from all over the world acclimate and adjust to life in the U.S. Understanding people with diverse backgrounds, challenges, and needs were a key part of her job. During a significant portion of her time at IRCO, she served as an Academic Advisor and Career Counselor to immigrant high school students from schools throughout the Portland area, including students from Madison High School. She excelled at IRCO in all respects and received numerous accolades from coworkers and clients.

D. Plaintiff's Experiences at Lewis & Clark

13. Plaintiff enrolled at LEWIS & CLARK for the summer term 2012 to pursue a Master of Education degree in school counseling through the Program.

14. Professors and students in the Program made repeated comments denigrating Christians during classes while plaintiff was present. The number and content of negative comments towards Christians in plaintiff's classes at LEWIS & CLARK made her feel uncomfortable and insecure. Comments like "Oh, Christians, they are awful" were even made by professors, though students exhibited bias too. This created a climate of fear for plaintiff and caused her significant health issues stemming from stress.

15. Despite these challenges, plaintiff excelled in the Program, and maintained a GPA exceeding 3.9.

16. As part of the Program, LEWIS & CLARK required plaintiff to obtain several hundred hours of hands-on internship experience counseling students. In the spring of 2013, plaintiff successfully completed an internship counseling elementary and middle school students and received only positive feedback from her supervisors.

E. Plaintiff's Internship at Madison High School

17. LEWIS & CLARK had an ongoing relationship placing students in the Program as counseling interns at Madison High School. Starting in September 2013, plaintiff began an internship at Madison High School to counsel high school students. Unidentified school personnel assigned COOPER as plaintiff's mentor and supervisor. Their relationship began well, and plaintiff successfully integrated herself into the school community and students' lives.

18. Plaintiff and her coworkers got to know each other on a personal level during the internship. COOPER, CALLIN and others learned plaintiff is a Russian native and a devout Christian with sincerely-held religious beliefs and values.

19. During the internship, plaintiff noticed and experienced a significant emphasis the school placed on sexual identity and identifying students in a category other than heterosexual. For example, the sexual education curriculum placed a disproportionate emphasis on sexual identification and student participation in lesbian, gay, bisexual, and transgender school activities. Support for same-sex marriage among school staff and administration was also made clear by initiative petitions circulating through the break areas, and staff openly shared information about which PPS employees supported a same-sex marriage initiative.

20. Much of this emphasis emanated from COOPER and her office. COOPER was aggressive in expressing her views concerning sexual orientation. COOPER advised plaintiff early in their working relationship that she was a lesbian living with a female partner. COOPER created an environment in the counseling center where sexual identity was frequently a topic of conversation, and even included and involved substitute teachers who were not a regular part of the school staff.

21. On or about Thursday, October 17, 2013, plaintiff and COOPER had a conversation during which plaintiff inquired about the school's teaching of sexual health. Given the emphasis COOPER and other Madison High School staff placed on sexual orientation, plaintiff privately asked COOPER what she considered age-appropriate curriculum in light of controversial issues surrounding religion, homosexuality, and sexual identity. Plaintiff privately asked whether diverse views were taught and tolerated and

whether school counseling there allowed any room for plaintiff's own beliefs, values and self-identity, given her roots and values as a Russian and a devout Christian.

22. In response to these inquiries, COOPER immediately became combative, accusing: (1) plaintiff of being judgmental because she was a Christian and a native Russian; (2) Christians of being judgmental in general; and (3) Russians of being judgmental in general. COOPER then privately concluded plaintiff was unqualified to be a school counselor because of her disagreement with plaintiff's beliefs, values and heritage. These accusations were later incorporated in a letter to LEWIS & CLARK, a true copy of which is attached hereto as Exhibit A.

23. On information and belief, COOPER provided CALLIN a false statement alleging plaintiff had referred to homosexuals as "diseased" and relayed her opinion that plaintiff could not perform as a school counselor because of her values, beliefs and heritage. CALLIN was complicit in and supported, if not required, COOPER's decision to terminate plaintiff's internship at Madison High School.

24. Shortly after this conversation, plaintiff's LEWIS & CLARK supervising professor visited Madison High School and met with COOPER to discuss plaintiff's performance. The supervising professor also observed plaintiff counsel a high school student during the visit. The supervising professor praised plaintiff's counseling after the session and shared that COOPER also liked her work and trusted her with students.

25. A few days later, on or about October 21, 2013, the PPS Defendants terminated plaintiff's internship in a letter to LEWIS & CLARK (*see* Exhibit A) expressing

their unlawful belief plaintiff could not perform satisfactorily as a school counselor because of her Christian faith and her Russian heritage.

F. Lewis & Clark's Termination of Plaintiff's Candidacy for a School Counselor Degree

26. In response to Exhibit A, LEWIS & CLARK terminated plaintiff's candidacy from the Program, even though plaintiff vigorously denied the PPS Defendants' false allegations orally and in writing. Plaintiff informed LEWIS & CLARK that COOPER and other employees at Madison High School made anti-Christian and anti-Russian remarks, but LEWIS & CLARK refused to investigate the PPS Defendants' allegations or plaintiff's responses thereto.

27. After the termination of plaintiff's PPS internship, LEWIS & CLARK refused to place plaintiff in another internship to allow her to complete her chosen Master of Education degree which, on information and belief, it did for other students in plaintiff's position. Instead, LEWIS & CLARK utilized its academic disciplinary process to force plaintiff to change her major, drop out of the school counseling program, and instead pursue a degree that would not qualify her to be licensed as a school counselor. Plaintiff recently graduated from LEWIS & CLARK in July 2014 with a Master of Education degree that renders her ineligible to be licensed as a school counselor.

28. As a result of the defendants' actions, plaintiff has suffered irreparable harm, including economic damages from lost wages (past and future), lost earning capacity, and student loan repayment obligations, as well as noneconomic damages arising from emotional distress, loss of enjoyment of life, and damage to her personal and professional reputation in

an amount to be proved at trial under 42 U.S.C. §1983, ORS 345.240 and ORS 659A.885 as alleged herein.

IV. CLAIMS FOR RELIEF

First Claim for Relief

(Deprivation of Civil Rights – Section 1983 – Against the PPS Defendants)

29. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 as though set forth fully herein.

30. Because of PPS defendants' termination of plaintiff's internship, plaintiff was deprived of rights guaranteed to her under the First and Fourteenth Amendments to the United States Constitution, as applied to state and local governments under the Fourteenth Amendment, in one or more of the following particulars:

a) PPS Defendants substantially burdened plaintiff's right to free exercise of her religion;

b) PPS Defendants substantially burdened plaintiff's right to free speech;

c) PPS Defendants substantially burdened plaintiff's right not to be compelled to speak or express a message contrary to her own values or religious beliefs in the face of punishment for exercising her First Amendment rights;

d) PPS Defendants substantially burdened plaintiff's right to free speech by imposing unconstitutional conditions based on discrimination against the viewpoint of her speech;

e) PPS Defendants substantially burdened plaintiff's right to equal protection by requiring her to affirm or validate homosexual behavior contrary to her protected values and beliefs within the context of her counseling internship, thereby treating her differently from other persons similarly situated;

f) PPS Defendants substantially burdened plaintiff's right to due process by applying policies, customs and practices that were vague and overbroad by vesting PPS Defendants with unbridled discretion to punish protected expression without objective standards or guidelines, arbitrarily and impermissibly chilling protected First Amendment expression, whereby a reasonable person could not determine what conduct was required to conform to such policies, practices or customs;

g) PPS Defendants substantially burdened plaintiff's right to free speech and free exercise by retaliating against her for exercising her First Amendment rights;

h) Plaintiff was deprived of her right to be free from discrimination on the basis of her race; and

i) Plaintiff was deprived of her right to be free from discrimination on the basis of her national origin.

31. The deprivation of Plaintiff's constitutional rights was pursuant to the official policies, practices and/or customs of PPS Defendants, which are neither neutral nor of general applicability.

32. PPS Defendants' actions were not the least restrictive means of accomplishing any legitimate, let alone compelling, governmental interest.

33. As a direct result of the misconduct of the PPS Defendants, plaintiff suffered economic and noneconomic damages as alleged in paragraph 28.

34. Plaintiff is entitled to recover reasonable and necessary attorney fees and costs incurred in the prosecution of this action pursuant to 42 U.S.C. §1988.

Second Claim for Relief

(Religious Discrimination under ORS 659A.030, *et seq.* against the PPS Defendants)

35. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 as though set forth fully herein.

36. The PPS Defendants terminated Plaintiff's internship because of her religion in violation of ORS 659A.030 and ORS 659A.403 with respect to both employment and public accommodation.

37. The PPS Defendants thereafter conveyed false and derogatory statements about plaintiff's performance to LEWIS & CLARK, causing LEWIS & CLARK to terminate plaintiff from the Program.

38. Plaintiff is entitled to recover actual damages as alleged in paragraph 28 or $200, whichever is greater, pursuant to ORS 659A.885(3).

39. Plaintiff is entitled to recover reasonable and necessary attorney fees and costs incurred in the prosecution of this action pursuant to ORS 20.107 and 659A.885(1) and (7)(d).

Third Claim for Relief

(Race Discrimination under ORS 659A.030, *et seq.* against the PPS Defendants)

40. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 and 38 and 39 as though set forth fully herein.

41. The PPS Defendants terminated plaintiff's internship because of her race in violation of ORS 659A.030 and 659A.403 with respect to both employment and public accommodation.

42. The PPS Defendants thereafter conveyed false and derogatory statements about plaintiff's performance to LEWIS & CLARK, causing LEWIS & CLARK to terminate plaintiff from the Program.

Fourth Claim for Relief

(National Origin Discrimination under ORS 659A.030 *et seq.*

against the PPS Defendants)

43. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 and 38 and 39 as though set forth fully herein.

44. The PPS Defendants terminated Plaintiff's internship because of her national origin in violation of ORS 659A.030 and 659A.403 with respect to both employment and public accommodation.

45. The PPS Defendants thereafter conveyed false and derogatory statements about Plaintiff's performance to LEWIS & CLARK, causing LEWIS & CLARK to terminate plaintiff from the Program.

Fifth Claim for Relief

(Religious Discrimination under ORS 345.240 against LEWIS & CLARK)

46. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 and 38 as though set forth fully herein.

47. LEWIS & CLARK refused to reassign plaintiff, or allow plaintiff's reassignment, to another internship, compelled plaintiff to change her major and choice of professional degree, and prevented plaintiff from earning her intended professional degree or becoming licensed as a school counselor because of her religion in violation of ORS 345.240 and 659A.403.

48. Plaintiff is entitled to recover reasonable and necessary attorney fees and costs incurred in the prosecution of this action pursuant to ORS 20.107 and 659A.885(7)(d).

Sixth Claim for Relief

(Race Discrimination under ORS 345.240 against LEWIS & CLARK)

49. Plaintiff realleges and incorporates by reference paragraphs 1 through 28, 38 and 48 as though set forth fully herein.

50. LEWIS & CLARK refused to reassign plaintiff, or allow plaintiff's reassignment, to another internship, compelled plaintiff to change her major and choice of professional degree, and prevented Plaintiff from earning her intended professional degree or becoming licensed as a school counselor because of her race in violation of ORS 345.240 and 659A.403.

Seventh Claim for Relief

(National Origin Discrimination under ORS 345.240 against LEWIS & CLARK)

51. Plaintiff realleges and incorporates by reference paragraphs 1 through 28, 38 and 48 as though set forth fully herein.

52. LEWIS & CLARK refused to reassign plaintiff, or allow plaintiff's reassignment, to another internship, compelled plaintiff to change her major and choice of professional degree, and prevented plaintiff from earning her intended professional degree or becoming licensed as a school counselor because of her national origin in violation of ORS 345.240 and 659A.403.

Eighth Claim for Relief

(Religious Discrimination under ORS 659A.403 against LEWIS & CLARK)

53. Plaintiff realleges and incorporates by reference paragraphs 1 through 28, 38 and 48 as though set forth fully herein.

54. LEWIS & CLARK refused to reassign plaintiff, or allow plaintiff's reassignment, to another internship, compelled plaintiff to change her major and choice of professional degree, and prevented plaintiff from earning her intended professional degree or becoming licensed as a school counselor because of her religion in violation of ORS 659A.403.

Ninth Claim for Relief

(Race Discrimination under ORS 659A.403 against LEWIS & CLARK)

55. Plaintiff realleges and incorporates by reference paragraphs 1 through 28, 38 and 48 as though set forth fully herein.

56. LEWIS & CLARK refused to reassign Plaintiff, or allow Plaintiff's reassignment, to another internship, compelled Plaintiff to change her major and choice of professional degree, and prevented Plaintiff from earning her intended professional degree or becoming a school counselor because of her race in violation of ORS 659A.403.

Tenth Claim for Relief

(National Origin Discrimination under ORS 659A.403 against LEWIS & CLARK)

57. Plaintiff realleges and incorporates by reference paragraphs 1 through 28, 38 and 48 as though set forth fully herein.

58. Lewis & Clark refused to reassign Plaintiff, or allow Plaintiff's reassignment, to another internship, compelled Plaintiff to change her major and choice of professional degree, and prevented Plaintiff from earning her intended professional degree or becoming licensed as a school counselor because of her national origin in violation of ORS 659A.403.

Eleventh Claim for Relief

(Breach of Contract against Lewis & Clark)

59. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 and 38 as though set forth fully herein.

60. Plaintiff and LEWIS & CLARK entered into a valid, enforceable agreement for delivery and receipt of educational services based upon an exchange of valuable consideration. In exchange for plaintiff's tuition dollars, LEWIS & CLARK agreed to allow plaintiff to complete the Program and obtain a school counseling degree if she fulfilled all of the Program's requirements. LEWIS & CLARK also promised discrimination-free education and LEWIS & CLARK's best efforts to support completion of her graduate degree.

61. Plaintiff either: (1) fulfilled all conditions precedent on her part to be performed under the agreement, including payment of all fees and costs, strong academic performance and successful completion of internships available to her; or (2) was prevented from fulfilling her obligations by LEWIS & CLARK's conduct.

62. By failing to help plaintiff fulfill her internship program, for forcing plaintiff to accept a lesser degree and to accept denial of her intended professional degree, and for adopting Madison High School's discriminatory decisions, LEWIS & CLARK breached its obligations under the agreement.

Twelfth Claim for Relief

(Breach of the Duty of Good Faith and Fair Dealing against Lewis & Clark)

63. Plaintiff realleges and incorporates by reference paragraphs 1 through 28 and 59-62 as though set forth fully herein.

64. Plaintiff and LEWIS & CLARK entered into a valid, enforceable agreement for delivery and receipt of educational services based upon an exchange of valuable consideration. In exchange for plaintiff's tuition dollars, LEWIS & CLARK agreed to allow plaintiff to complete the Program and obtain a school counseling degree if she fulfilled all of the Program's requirements. LEWIS & CLARK also promised discrimination-free education and LEWIS & CLARK's best efforts to support completion of her graduate degree.

65. Plaintiff either (1) fulfilled all of her obligations under the agreement, including strong academic performance and successful internships, or (2) was prevented from fulfilling her obligations by Lewis & Clark's conduct.

66. By failing to help plaintiff fulfill her internship program, for forcing plaintiff to accept a lesser degree and to accept denial of her intended professional degree, and for adopting Madison High School's discriminatory decisions, LEWIS & CLARK breached its duty of good faith and fair dealing.

V. DEMAND FOR JURY TRIAL

67. Plaintiff demands a trial by jury.

VI. PRAYER FOR RELIEF

WHEREFORE, plaintiff prays for judgment against defendants PPS, ROBERTA COOPER, PETRA CALLIN and LEWIS & CLARK COLLEGE as follows:

1. Declaring the PPS defendants in violation of the statutes set forth in plaintiff's First, Second, Third and Fourth claims for relief;

2. Declaring LEWIS & CLARK in violation of the statutes set forth in plaintiff's Fifth through Tenth claims for relief;

3. Awarding plaintiff $200 or actual economic damages for her lost earning capacity and future earnings and benefits in amounts as awarded by a jury, whichever is greater;

4. Awarding plaintiff $200 or actual noneconomic damages losses in amounts as awarded by a jury, whichever is greater;

5. Awarding plaintiff her costs and disbursements, including reasonable attorney fees, costs, and expert witness fees pursuant to 42 U.S.C. § 1988 on plaintiff's First Claim for Relief against PPS Defendants and pursuant to ORS 20.107 and 659A.885 on plaintiff's Second through Fourth Claims against PPS Defendants and her Fifth through Tenth Claims against LEWIS & CLARK;

6. Ordering the defendants to pay prejudgment and post-judgment interest on all amounts due to plaintiff as a result of this action, calculated at the prevailing rate; and

7. Ordering such further or alternative relief as the court deems appropriate.

Respectfully submitted this 17th day of October, 2014.

/s/ Herbert G. Grey

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